REMARKS

In this response to the above identified Final Office Action, no claims have been added, no claims have been cancelled and no claims have been amended. Accordingly, claims 51-68 and 89 are pending

I. Claims Rejected Under 35 U.S.C. § 102

The Examiner has rejected claims 51-54, 59-61, 63-66 and 89 under 35 U.S.C. § 102 as being anticipated by Falcon et al., U.S. Patent No. 6,632,094 ("Falcon"). Applicants respectfully traverse this rejection.

It is axiomatic that to anticipate a claim, every element of the claim must be disclosed within a single reference. Falcon does not come close to meeting this standard. At a minimum, Falcon fails to teach or suggest the element of "inferring the extent of knowledge of a language of the user". For this proposition, the Examiner relies on Falcon (col. 9, lines 29-39). Applicants respectfully submit that the cited passage teaches no more than that the word definitions retrieved are selected at the time of creation of the product to be contextually correct with the story for which the product provides narration. At presentation time, there is no inference as there is only one possible choice (the definition selected to be contextually correct). Applicants have reviewed the rest of Falcon and are unable to discern anywhere in which an inference is undertaken to discern anything about the user, much less the extent of knowledge of a language of the user. The fact that a child may click on a link to retrieve a definition, for example, does not indicate that any inference is drawn at any level. For at least this reason, it is respectfully submitted that the rejection should be withdrawn. The Examiner's assertion that "discerning" is not part of the claim is noted. However, the claim's explicit language "inferring the extent of knowledge of a user" belies this position. By definition, inference is a way in which facts may be discerned or determined.

As an additional matter, Falcon fails to teach or suggest "presenting an original content including at least one of a video or audio content originally produced primarily for purposes other than language learning." Applicants have been unable to discern anywhere in Falcon in which such an original content is disclosed. Rather, the Falcon product is explicitly created solely for the purposes of language learning. There is no original content, e.g., content having a market outside of the context of Falcon's program disclosed. Applicants note that for this element, the Examiner relies on col. 3, lines 52-53. Applicants respectfully submit that this merely sets forth that text as displayed on a video screen and audio and narration of the text is generated from stored audio data, it is difficult to discern how the text displayed on a video screen satisfies the limitation of an original content including one of video and audio content originally produced primarily for purposes other than language learning. As such, it is respectfully submitted that the rejection of claim 51 should be withdrawn.

Analogous discussions apply to claim 89. Thus, Applicants respectfully request the withdrawal of all pending rejections under 35 U.S.C. § 102.

With respect to claim 52, Applicants respectfully submit that the Examiner's reliance on col. 9, lines 42-67 for teaching text database of words present within the original content is misplaced. As an initial matter, this section relates to creation of a database of an audio signal of a text narration of a book overlaid on the text. This cannot constitute the original content as claimed, at least for the reason that the book does not include video or audio content. Thus, there is no teaching or suggestion in Falcon of additional content, including a text database of words present within the original content. For this additional reason, claim 52 is patentable over the reference of record.

With respect to claim 53, there is no disclosure of combining additional content from a separate digital medium with the original content as claimed. In the Office Action, the Examiner omits the limitation of "from a separate digital medium." However, such omission is contrary to the law when analyzing a rejection under 35 U.S.C. § 102.

With regard to claim 59, Applicants respectfully submits that the notion of automatically pausing, much less the basis for such pause, is completely absent from the citation by the Examiner. The Examiner cites col. 5, lines 37-61. However, this passage merely discusses various soft buttons, which a user may actuate to influence the activity of display. The actuation of the soft buttons cannot constitute automatically pausing the content during the playback as it is not automatic where the user physically directly causes the result. Moreover, there is no indication that the point and duration is based on the extent of knowledge of the user (the extent which was inferred in the claim from which claim 59 depends, i.e., claim 51). Thus, claim 59 is independently patentable over the reference of record. The rejection of claim 60 suffers from similar deficiencies as claim 59. Moreover, the additional element of claim 60 is also not taught or suggested by the reference.

With respect to claim 61, the cited passage merely indicates that a child can get as little or as much help as he needs. However, there is no teaching or suggestion that the system actually prompts the user to indicate that they desire more or less assistance. Failure to disclose the prompting element of claim 61 necessitates withdrawal of the rejection.

With respect to claim 63, rejection suffers from the same deficiencies as discussed above in connection with the absence of original content from Falcon.

With respect to claim 64, the Examiner relies on col. 10, lines 10-38. However, this discussion of the creation of the database fails to teach or suggest the analysis that is claimed, or for that matter, the presenting of the information of interest prior to playing the segment. There simply is no presentation of any information prior to playing the segment in Falcon and the cited passage relates to creation, not playback, and is thus inapposite in rendering this rejection.

With respect to claim 65, as with other claims discussed above, the prompting element is absent from the reference. Thus, such rejection, too, should be withdrawn.

For all the foregoing reasons, withdrawal of the rejection under 35 U.S.C. § 102 is respectfully requested.

II. Claims Rejected Under 35 U.S.C. § 103

The Examiner has rejected claim 55 under 35 U.S.C. § 103 as being unpatentable over Falcon in view of Sameth et al., U.S. Patent No. 5,882,202 ("Sameth"). Applicants respectfully traverse this rejection. At least because Sameth does not cure the deficiencies discussed above in connection with the independent claim from which claim 55 depends, rejection under 35 U.S.C. § 103 should be withdrawn.

The Examiner rejects claims 67 and 68 under 35 U.S.C. § 103 as unpatentable over Falcon in view of Rtischev et al., U.S. Patent No. 6,302,695 ("Rtischev"). Applicants respectfully traverse this rejection. Again, the supplementary reference fails to cure the deficiencies discussed above in connection with the claims from which claims 67 and 68 depend. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 56-58 and 62 under 35 U.S.C. §103 as unpatentable over Falcon in view of Sameth and further in view of Kehoe, U.S. Patent No. 5,794,203 ("Kehoe"). Applicants respectfully traverse this rejection. Moreover, Applicants respectfully submit that there is no motivation to combine these references. Kehoe is directed to biofeedback system for speech disorders. An attempt to apply Kehoe, which modifies a recording of a users voice, to modify the prerecorded voice or from a movie soundtrack severely over reads the teachings of Kehoe. Both Falcon and Sameth are directed to a language learning system in which presumably the speakers (those providing the dialogue/narrative content) do not have a disorder. Absent Applicants' identification of the issue that the recognition of the spoken word in the soundtrack, may be improved by the time spacing and pitch adjusted as claimed, one would not have been motivated to look for such adjustments. Accordingly, this combination could only have been arrived at by hindsight. Hindsight is inappropriate where neither of the references suggest the desirability of the combination, as is the case here. Applicants respectfully requests withdrawal of the rejections.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending, namely claims 51-68 and 89 patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207 3800.

Respectfully submitted,

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CERTIFICATE OF FACSIMILE:
I hereby certify that this correspondence is being transmitted via facsimile on the date shown below to the United States Patent and Trademark Office.

Marilyn Bass May 23, 2005